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No. 96-1529

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Michael C. Johnson,  
Appellant,  
v.  
United States of America,  
Appellee.

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\* Appeal from the United States  
\* District Court for the  
\* Eastern District of Missouri.

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\* [UNPUBLISHED]  
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Submitted: October 17, 1996

Filed: October 22, 1996

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Before BOWMAN, MAGILL, and LOKEN, Circuit Judges.

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PER CURIAM.

Michael Johnson appeals from the district court's<sup>1</sup> order denying his 28 U.S.C. § 2255 motion. We affirm.

Johnson was originally sentenced to 78 months imprisonment and four years supervised release; the prison term was later reduced to 21 months pursuant to Federal Rule of Criminal Procedure 35(b), but the supervised release period remained the same. He argued his supervised release period should also have been reduced. We conclude the court's discretionary decision not to modify the sentence with respect to supervised release could not be considered a violation of law warranting habeas relief, as the four-year supervised release term was within the statutory limits for

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<sup>1</sup>The HONORABLE CAROL E. JACKSON, United States District Judge for the Eastern District of Missouri.

Johnson's Class B felony. See 18 U.S.C. § 3583(b) (limits on supervised release depending on class of felony; Class B felony carries five-year limit); Goff v. United States, 965 F.2d 604, 605 (8th Cir. 1992) (per curiam) (decision to grant or deny Rule 35(b) motion is entirely within district court's discretion).

We further conclude that Johnson's ineffective-assistance claim was properly rejected, as Johnson did not show that his attorney's failure to call certain witnesses prejudiced his defense. See Strickland v. Washington, 466 U.S. 668, 687, 694 (1984). Johnson abandoned his remaining claims--that falsified information, forged signatures and perjured testimony were used against him, and that his pretrial motions were denied without review or opportunity to object--by not discussing them in his appellate brief. See Fed. R. App. P. 28(a); see also Jasperson v. Purolator Courier Corp., 765 F.2d 736, 740-41 (8th Cir. 1985). We do not consider Johnson's claims raised for the first time on appeal. See Fritz v. United States, 995 F.2d 136, 137 (8th Cir. 1993), cert. denied, 510 U.S. 1075 (1994). We deny his motion for appointment of counsel.

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.